
A BILL FOR AN ACT

RELATING TO EMERGENCY RULES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the coronavirus
2 disease 2019 (COVID-19) pandemic has created great challenges to
3 global health, economy, and way of life. The governor and
4 county mayors have had to exercise their emergency powers under
5 chapter 127A, Hawaii Revised Statutes, to impose rules aimed to
6 control the spread of COVID-19. The enforcement of these rules
7 is critical to efforts to limit the spread of COVID-19, protect
8 the health and safety of the community, manage medical
9 resources, and restart the economy. To allow for more
10 meaningful and effective enforcement of emergency orders, the
11 governor and mayors need flexibility to promulgate a range of
12 lesser penalties for emergency rules.

13 Accordingly, the purposes of this measure are to:

- 14 (1) Allow for lesser emergency period penalties to be
15 adopted and promulgated by the governor or a mayor;
16 and



1 (2) Authorize the county prosecutors to exercise
 2 discretion with the offense charged and the penalty
 3 sought for certain first-time violations of COVID-19
 4 emergency orders incurred since March 4, 2019.

5 SECTION 2. Section 127A-29, Hawaii Revised Statutes, is
 6 amended to read as follows:

7 " ~~[+] §127A-29 [] — Misdemeanors.~~ Emergency period
 8 infractions, violations, petty misdemeanors, and misdemeanors.

9 (a) Any person violating any rule of the governor or mayor
 10 prescribed and promulgated pursuant to this chapter and having
 11 the force and effect of law~~[7]~~ shall, if it shall be so stated
 12 and designated in the rule, be guilty of [a] an infraction,
 13 violation, petty misdemeanor, or misdemeanor. ~~[Upon]~~ If a
 14 penalty is not stated and designated in the rule, the person
 15 shall be guilty of a misdemeanor and upon conviction, the person
 16 shall be fined not more than \$5,000, ~~[or]~~ imprisoned not more
 17 than one year, or both.

18 (b) ~~[Any]~~ Notwithstanding subsection (a), any person who
 19 intentionally, knowingly, or recklessly destroys, damages, or
 20 loses any shelter, protective device, or warning or signal
 21 device, shall if the same was installed or constructed by the



1 United States, the State, or a county, or is the property of the
2 United States, the State, or a county, be fined the cost of
3 replacement, or imprisoned not more than one year, or both. The
4 governor or mayor, may, by rule, make further provisions for the
5 protection from misuse of shelters, protective devices, or
6 warning and signal devices."

7 SECTION 3. For any misdemeanor incurred since March 4,
8 2019, through the promulgation of a superseding emergency order
9 regarding the violation of any rule prescribed and promulgated
10 by the governor or mayor pursuant to chapter 127A, Hawaii
11 Revised Statutes, and having the force and effect of law that
12 requires the person to:

- 13 (1) Wear a mask or face covering;
- 14 (2) Socially distance from others;
- 15 (3) Abstain from gathering;
- 16 (4) Follow shelter-in-place or stay-at-home orders or
17 adhere to a curfew; or
- 18 (5) Refrain from entering or remaining in designated
19 public places or facilities such as parks and beaches,
20 the county prosecutor, at the prosecutor's discretion, may
21 charge and prosecute the misdemeanor as a lesser offense



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1 including an infraction; provided that the offense is the first
2 occurrence of noncompliance with any rule prescribed and
3 promulgated by the governor or mayor pursuant to chapter 127A.

4 SECTION 4. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 5. This Act shall take effect upon its approval.

7

INTRODUCED BY: *Linda Lehman*

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Report Title:

Emergency Period Infractions; Violations; Petty Misdemeanors;
Misdemeanors

Description:

Allows for lesser emergency period penalties to be adopted and promulgated by the governor or a mayor. Authorizes the county prosecutors to exercise discretion with the offense charged and the penalty sought for certain first-time violations of COVID-19 emergency orders incurred since March 4, 2019.

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